IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 51 OF 2006

SMT. KAMAL PEREIRA AND 3 ORS., ...Petitioners

Versus

SHRI LAXIMIKANT VASSUDEV SINARI AND 10 ORS., ...Respondents

Mr. Rohit Bras De Sa, Advocate for the petitioners.

Mr. M. B. D'Costa, Senior Advocate with Mr. J. Abreu Lobo, Advocate for respondents No.1 to 7.

Mr. V. A. Kamat, Advocate for respondent No.8.

Coram:- R.M.S. KHANDEPARKAR, J.

Date:- 2nd March, 2006

P.C.

Heard. The petitioners challenge the Order dated 8.2.2006, passed by the Dy. Collector, on the ground that the Dy. Collector could not have addressed to the issue regardding merits of the case, once the Dy. Collector has refused the condonation of delay in filing the appeal. On hearing the learned Advocates and on perusal of the impugned order, it is apparent that the concerned authority has refused to condone the delay and while analysing the materials on record, dealing with the issue pertaining to the possibility of irreparabe loss to the petitoner in case of refusal to condone the delay, the appellate authority has observed about absence of case on merits to the petitioner. That by itself does not amount to a decision on merits of the case. Once the appellate authority rejected the application for codonation of delay, the reference in such a case by the appellate authority in the impugned order is merely to ascertain whether the petitioner would suffer irreparable loss in case of refusal to condone the delay. The observations in relation to the merits are to be

understood in that context and not as pronouncement of order on merits of the case. With these observations, no further interference is called in the matter. Petition stands disposed of accordingly.

R.M.S. KHANDEPARKAR, J.

ssm.